

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID A. JACKSON-MACKAY,
AUSTIN D. ANDERSON, and
PRESTON WISENBAKER,

Plaintiffs,

vs.

VONNIE COTANT, Jail Administrator,
Scotts Bluff County Detention Center,
individual capacity; MICHAEL
DEDINSKY, Deputy Jail Administrator,
Scotts Bluff County Detention Center,
individual capacity; JULIE WHITE,
Administrative Sergeant, Scotts Bluff
County Detention Center, individual
capacity; VAL RIVAS, Mail Room
Supervisor, Scotts Bluff County
Detention Center, individual capacity;
KARI WOLF, Mail Room Clerk,
individual capacity; JEREMIAH
BRETTHAUER, Inmate Services
Liasion, Scotts Bluff County Detention
Center; COUNTY OF SCOTTS BLUFF,
NEBRASKA, acting through the Scotts
Bluff County Detention Center; and
MARK OVERMAN, Sheriff, Scotts
Bluff County Detention Center,
individual capacity;

Defendants.

8:22CV10

MEMORANDUM AND ORDER

This matter is before the court on the Eighth Circuit Court of Appeals' judgment requiring collection from Plaintiff David A. Jackson-Mackay ("Jackson-

Mackay”) of the full \$505.00 appellate and docketing fees. (Filing 62.) The Court of Appeals’ mandate was entered September 2, 2022. (Filing 63.)

The Prison Litigation Reform Act (“PLRA”) requires prisoner plaintiffs to pay the full amount of the court’s \$505.00 appellate filing fee by making monthly payments to the court, even if the prisoner is proceeding in forma pauperis. 28 U.S.C. § 1915(b). The PLRA “makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951, 952 (D. Neb. 2001) (citing *In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997)). The appellate filing fee is assessed when the district court receives the prisoner’s notice of appeal. *Henderson v. Norris*, 129 F.3d 481, 485 (8th Cir. 1997).

Jackson-Mackay must pay an initial partial filing fee in the amount of 20 percent of the greater of Jackson-Mackay’s average monthly account balance or average monthly deposits for the six months preceding the filing of the notice of appeal. *See* 28 U.S.C. § 1915(b)(1). Accordingly, based on the records before the court, the initial partial filing fee is \$11.31, based on an average monthly account balance of \$56.56. (*See* Filing 70.)

In addition to the initial partial filing fee, Jackson-Mackay must “make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.” 28 U.S.C. § 1915(b)(2). The statute places the burden on the prisoner’s institution to collect the additional monthly payments and forward them to the court as follows:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). Therefore, after payment in full of the initial partial filing fee, the remaining installments shall be collected pursuant to this procedure.

IT IS THEREFORE ORDERED that:

1. Plaintiff Jackson-Mackay shall pay an initial partial filing fee of \$11.31 within 30 days unless an enlargement of time is granted in response to a written motion.

3. After payment of the initial partial filing fee, Plaintiff Jackson-Mackay's institution shall collect the additional monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and shall forward those installments to the court.

4. The clerk's office is directed to send a copy of this order to the appropriate official at Plaintiff Jackson-Mackay's institution.

5. The clerk's office is directed to set a pro se case management deadline using the following text: **October 28, 2022**: Jackson-Mackay's initial partial appellate filing fee due.

Dated this 28th day of September, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge